

IN THE MATTER OF ARBITRATION BETWEEN

CITY OF KEOKUK  
PUBLIC EMPLOYER

AND

KEOKUK POLICE OFFICERS ASSOCIATION  
EMPLOYEE ORGANIZATION

INTEREST ARBITRATION  
AWARD

RONALD HOH, ARBITRATOR

**APPEARANCES**

For the City of Keokuk:

Toby Gordon, Attorney

For the Keokuk Police Officers Association:

Matthew Glasson, Attorney

**AUTHORITY**

This proceeding arises pursuant to the provisions of Sections 19 and 22 of the Iowa Public Employment Relations Act, Chapter 20, 2005 Code of Iowa (hereinafter Act). The City of Keokuk (hereinafter City) and the Keokuk Police Officers Association (hereinafter Association) were unable to agree upon the terms of a wage reopener in their collective bargaining agreement for the 2007 fiscal year (July 1, 2006 - June 30, 2007) through their negotiations and mediation. The undersigned was subsequently selected as the single arbitrator pursuant to Section 22 of the Act from a list provided by the Iowa Public Employment Relations Board (hereinafter PERB).

A hearing was held in Keokuk, Iowa on March 9, 2006 and was completed the same day. During the hearing, all parties were provided full opportunity to present evidence and argument in support of their respective positions. The hearing was mechanically recorded by the arbitrator pursuant to the regulations of PERB.

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In accordance with their independently negotiated impasse procedures, the parties waived the March 15 statutory impasse deadline for issuance of this decision. They further agreed at hearing that the arbitrator's award herein would be issued on or before April 15, 2006.

## **FINDINGS OF FACT**

### **BACKGROUND**

The City provides various municipal services to its constituents, including a full service police department (hereinafter Department). The Association represents for collective bargaining and contract administration purposes the City's 1st, 2nd and 3rd Class Police Officers, Dispatchers and Humane Officers, excluding all other Department employees. All police officers with more than two years of Department experience are included within the 1st Class Police Officer category. There are currently thirteen police officers, five dispatchers and one humane officer in the Association-represented bargaining unit. This proceeding arises pursuant to a wages only reopener in the 2005-08 collective bargaining agreement (hereinafter contract) currently in existence between the parties.

The parties began negotiations over the terms of the contractual wage reopener in the fall of 2005, but were unable to reach agreement during such negotiations and mediation. Thereafter, on December 27, 2005 a factfinding hearing was held before selected factfinder James O'Brien. On January 4, 2006 the factfinder issued his Report and Recommendations, wherein he recommended that the parties agree to a 3.5% across-the-board salary increase effective July 1, 2006. When the Association subsequently rejected that Recommendation, the parties initiated this interest arbitration proceeding and chose the undersigned as the arbitrator.

## **STATUTORY CRITERIA**

Section 22(9) of the Act sets forth the criteria by which the arbitrator is to select, under Section 22(11) of the Act, "the most reasonable offer of the final offers on each impasse item submitted by the parties, or the recommendation of the factfinder on each impasse item." Section 22(9) provides:

The...arbitrator shall consider, in addition to other relevant factors, the following factors:

- a. Past collective bargaining contracts between the parties including the bargaining that led up to such contracts.
- b. Comparison of wages, hours and conditions of employment of the involved public employees doing comparable work, giving consideration to factors peculiar to the area and classification involved.
- c. The interests and welfare of the public, the ability of the public employer to finance economic adjustments and the effect of such adjustments on the normal standard of services.
- d. The power of the public employer to levy taxes and appropriate funds for the conduct of its operations.

In addition, Section 20.17(6) of the Act provides:

No collective bargaining agreement or arbitrator's decision shall be valid or enforceable if its implementation would be inconsistent with any statutory limitation on the public employer's funds, spending, or budget or would substantially impair or limit the performance of any statutory duty by the public employer.

The award on the impasse item at issue herein is made with due regard to each of the above criteria.

## **POSITIONS OF THE PARTIES**

### **THE UNION**

The Union's final offer provides for a 4.5% across-the-board wage increase for each bargaining unit classification, effective July 1, 2006.

In support of that final offer, the Union makes the following arguments:

1. In contrast to bargaining history evidence concerning any other claimed comparable employer, bargaining unit employees received no wage increase during the current fiscal year. Such circumstances are a major contributing factor to the undisputed decrease of the relative wage ranking and position of bargaining unit employees when compared to wage amounts received by employees in comparable jurisdictions.
2. Among the Association's grouping of comparable Southeast Iowa employers, the City's pay level for bargaining unit officers ranks tied for last at the starting pay rate, and last at the top level pay rate at a level 81¢/hour lower than the next lowest comparable employer pay rate. A higher wage increase percentage than that received by officers in comparable jurisdictions is thus necessary to allow the Department to compete for, recruit and retain police officers.
3. Bargaining unit wage rate ranking among comparable employers has significantly decreased since fiscal year 2000. In that year, Department officer wage rates ranked fourth among the ten comparable employers at the starting pay level, and ninth at the top pay level. Such wage rates are now last in that comparability group in both categories, and last by a considerable margin at the top pay rate level. This diminution of relative ranking is further evidence of the need for an above average wage rate increase.
4. Other types of compensation received by bargaining unit officers do not account for the low base pay levels such officers receive in comparison to similarly-situated police employers. Among the six comparable employers whose police officers receive longevity pay, the Department is slightly below average in longevity payment at the five year level. While Department longevity is somewhat above average at the 30 year level, few Department officers collect longevity at that level, since few meet the thirty year experience

eligibility requirement for that level of payment.

5. Percentage wage increases provided to Department employees have ranked last among comparable employers since fiscal year 2000 at both starting and top pay levels. Department wage rate percentage increases thus lag significantly behind those of such employers. Such a relative wage diminution justifies a higher than average percentage wage increase for bargaining unit employees.

6. The City's budget data shows that budgeted police safety expenditures for bargaining unit employees have consistently run more than actual expenditures for such employees, while actual total City expenditures have closely mirrored budgeted amounts. Such a Department savings level over the years, in addition to the absence of a City ability to pay contention, show that the Department can easily afford the small wage cost difference contained in the Association's final offer.

7. While it is true that the City's population has decreased over the years, the Department's sworn officer employee complement has decreased since 1999 from 26 to 22 - the equivalent of an entire shift. In addition, in contrast to many other smaller cities, the City's population rises 27% when persons coming to work from outside of the City are accounted for. Such a unit employee decrease has contributed to a higher than national average crime index and more single officer responses to calls for service, particularly in the highly increased call numbers domestic violence area, resulting in substantially increased risks to officer safety.

8. While the parties in last year's negotiations did negotiate a new health insurance benefit for retiring bargaining unit employees, the proposal in that contract area was made by the City in the context its wage freeze offer, and no one in the bargaining unit will be eligible for the new benefit during the three year period of the current contract.

## THE CITY

The City's final offer, consistent with the recommendation of the factfinder, provides for a 3.5% wage increase across-the-board effective July 1, 2006. The City supports that final offer with the following arguments:

1. While the City agrees that the parties reached agreement over a wage freeze for the current City fiscal year, the parties agreed at that time in lieu of a wage increase to a \$100 per year increase in uniform allowance, an additional personal day, and a new retirement insurance benefit of a 100% City contribution for single health insurance for employees at least 55 years of age with at least 22 years of Department service and normal (non-disability) retirement. That agreement involved a significant City risk of unknown City expenditures in the future. In view of these benefit increases, agreed upon in lieu of a wage increase, no wage "catch-up" is appropriate in these circumstances.

2. The Association's argument concerning a need for a "catch-up" in wages was rejected by the factfinder. The factfinder specifically found that a "catch-up" was not appropriate in view of the bargaining history involved in last year's negotiations and the other benefits negotiated at that time on behalf of bargaining unit members.

3. The average wage settlement percentage increase among comparably-sized organized Iowa police departments in the City's comparability group for fiscal year 2006 is 3.21%, with settlements in none of those contracts as high a percentage as that contained in the Association's final offer. Such evidence of comparable settlements clearly favors the City's final offer.

4. U.S. Department of Labor statistics concerning cost of living increases show an all-city consumer price index average increase of 3.4%, and lower percentage increases for all recognized statistical sub-areas near the City. Such cost of living averages clearly support

the City's final offer.

5. While the City does not compare as well with similarly-situated Iowa cities at the lower end of its pay scale, its comparative position improves at the upper end of such scale. Because eleven of the thirteen uniformed Department officers are at the upper end pay level, it is significantly more pertinent to make comparisons at that upper pay scale level.

6. Both southeast Iowa in general, and the City and Lee County in particular, have been hard hit by job losses in recent years, particularly in the manufacturing sector. The County's unemployment rate of 7.2% is the second highest in Iowa, and a modest level of recovery in other Iowa geographical areas has not yet found Southeast Iowa. Such economic difficulties further support the lower percentage wage increase amount contained in the City's final offer.

7. While the City is not making an inability to pay argument and can afford to fund the Association's final offer, financial data shows that the amount of ending City cash balance (surplus) has dwindled over the last few years, that the City was about \$376,000 short budget-wise of the amount spent in fiscal 2005, that recurring revenues are down significantly, and that the arbitrator's adoption of either of the final offers here will further negatively impact those dwindling budget cash balances.

## **DISCUSSION**

Initially in this proceeding, it is apparent to the arbitrator under the parties' evidence and arguments that the primary criteria for the arbitrator's determination of the "most reasonable" of the two final offers under Section 22(9) of the Act are the past contracts and bargaining and the comparability criteria contained in Section 22(9)(a) and (b) of the Act. The City, while pointing to decreases in cash balances and related elements, specifically stated that it was making no inability to pay argument, and that it has the ability to fund the final

offers of either of the parties here. Therefore, the "ability to pay" criterion contained in Section 22(9)(c) is no more than a minor element of the arbitrator's determination here. Likewise, consistent with that City assertion, the proper outcome here is not dependent upon the "...power of the public employer to levy taxes and appropriate funds for the conduct of its operations " under Section 22(9)(d) of the Act.

In the category of bargaining history, the factfinder determined that a wage "catch-up" for fiscal year 2007, based upon the parties' agreement to a wage freeze covering the current 2006 fiscal year, was not appropriate, in view of the other benefits negotiated by the parties for fiscal year 2006 in return for the wage freeze. In that discussion, the factfinder specifically found that "...neither party offered any information regarding the historical ranking of Keokuk in the suggested comparability group."

The arbitrator does not disagree with the factfinder's single year conclusion concerning "catch-up". He believes, however, as addressed below, that in these circumstances the statutory criteria require more than a mere "snapshot" of bargaining history and comparability data, and instead a more historical perspective in both of these areas.

Turning next to the general area of comparability, this arbitrator has repeatedly stated his view in previous Iowa cases that, as a general rule, this criterion should involve to the extent possible an examination of the "labor market" for the positions subject to the dispute before him. More specifically, comparable employers under Section 22(9)(b) of the Act should to the extent possible be those employers with which the City competes for quality employees. As such, and particularly in view of the fact that numerous similarly-sized cities exist geographically within approximately one hundred miles of the City, it is my view that the cities of Estherville, Creston and Cherokee contained in the City's proposed comparability group are simply too far away in distance to properly be comparable to the City. Indeed,

both Estherville and Cherokee are located in northwest Iowa about four hundred miles from the City's far southeast Iowa location, and Creston is more than two hundred miles away. Wage rates for those cities, therefore, are simply not properly comparable to those of the City under Section 22(9)(b) of the Act in these circumstances.

The remaining cities in the City's proposed comparability group, as well as all of those in the Union's proposed group, are generally of similar size to the City and within about 100 miles of the City. Those cities, in my judgment, are properly comparable to the City under Section 22(9)(b) of the Act. Likewise, because Lee County deputy sheriffs sometimes work side by side with City police officers, and because both the County and the City as local employers compete for the same potential employees, their wages should also be examined as a secondarily comparable employer, even though counties are not entirely similarly structured when compared to cities.

As stated above, it is my view that both the bargaining history and comparability criteria should be examined from a historical perspective in these circumstances. When these factors are examined historically between fiscal year 2000 and the current fiscal year 2006, the data shows that at the starting pay level, the relative position of City police officers had declined in the nine employer group (not counting the City) from fourth highest in that group and nearest to the \$11.83/hour average wage rate at that time for that group, to a position of tied for last in that group, at a level of \$1.32/hour below the average in that group. Compared to Fort Madison, a city within 25 miles and within 50 in population of the City - and thereby clearly the most comparable employer - the City moved from a 64¢/hour wage rate advantage in fiscal 2000 to no wage rate advantage in fiscal 2006 at that level.

Similarly, at the top level pay which the City claims (and the arbitrator agrees) is most appropriate for comparison in these circumstances, while the City ranked ninth out of ten

at the top pay level in fiscal 2000, that competitive disadvantage went from \$1.19/hour below the average in that group in fiscal 2000 to \$1.90/hour below the average in fiscal year 2006. Even more telling, when compared to Fort Madison, that competitive disadvantage more than doubled at the top pay level between 92¢/hour in fiscal 2000 and \$1.94/hour in fiscal 2006. Similar and arguably worse negative comparative numbers are revealed in comparisons of City police officers to Lee County deputy sheriffs where the hourly wage rate disadvantage at the top pay level increased from 19¢/hour to \$1.99/hour between fiscal years 2000 and 2006.

Even if the Union's final offer is adopted by the arbitrator, the new top wage rate of \$16.54/hour for fiscal year 2007 would still rank last when compared to fiscal 2006 rates for all southeast Iowa comparable employers in both parties' comparability groups. In addition, the fiscal 2006 top rate for all but two of those employers would exceed the City's 2007 fiscal year top wage rate by at least \$2.24/hour. Moreover, even if the average contract settlement for comparable employers is as the City claims a 3.21% wage increase, the City's 3.5% wage increase final offer would result in a 55¢/hour increase at the top pay level, compared to a 56¢/hour average increase at that lower 3.21% percentage rate among those currently higher paid comparable employers, under data provided by the City. The City would thus continue and exacerbate its relative wage rate decline if the City's final offer was adopted here.

While the City points, inter alia, to data showing an average settlement of about 3.2% among comparable cities, and to a consumer price index increase of less than 3.5%, as supportive of its final offer, it is my view that the substantial erosion of bargaining unit wage rates under the bargaining history and comparability criteria presented in the evidence far outweigh these elements in the determination of the "most reasonable" of the final offers before the arbitrator. Similarly, it is in the "interests and welfare of the public" - the citizens

of the City - for the City to halt the precipitous decline in relative bargaining unit wage rates, in order to allow it to recruit and retain the most highly competent and effective law enforcement officers possible.

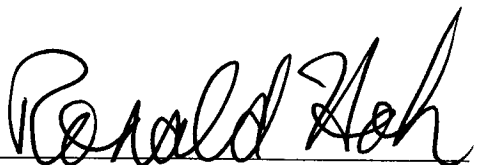
In the area of the City's ability to finance the arbitrator's award, the cost difference between the final offers on wages of both parties, according to current cost data supplied by the City, is only \$1870. Such a small amount, given the City's relatively strong financial position and the relatively low immediate cost for the current fiscal year contract with the Association, is easily affordable to the City.

Finally, the arbitrator recognizes that his award here is contrary to the recommendation of the factfinder. However, the factfinder by the clear terms of his Report and Recommendations was not provided with the bargaining history and comparability historical ranking data which showed the precipitous decrease in relative bargaining unit ranking and position discussed above. Such circumstances clearly make proper an award contrary to the recommendation of the factfinder here.

#### **CONCLUSIONS OF LAW AND AWARD**

In view of the entire above, and based upon the criteria contained in Section 22(9) of the Act, the arbitrator hereby finds that the final offer of the Association for a 4.5% across-the-board wage increase effective July 1, 2006 is the "most reasonable" of the final offers before him. That final offer is hereby awarded.

March 17, 2006

  
RONALD HOH  
ARBITRATOR

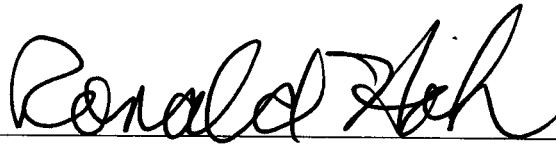
CERTIFICATE OF SERVICE

I certify that on the 17th day of March, 20 06, I served the foregoing Award of Arbitrator upon each of the parties to this matter by (                     personally delivering) (      X       mailing) a copy to them at their respective addresses as shown below:

Mr. Toby Gordon, Attorney  
Schulte Hahn Law Firm  
P.O. Box 517  
Burlington, IA 52601

Mr. Matthew Glasson, Attorney  
Glasson, Sole & McManus  
118 Third Avenue SE, Suite 830  
Cedar Rapids, IA 52401-1440

I further certify that on the 17th day of March, 20 06, I will submit this Award for filing by (                     personally delivering) (  X   mailing) it to the Iowa Public Employment Relations Board, 510 East 12th Street, Suite 1B, Des Moines, IA 50319.



Ronald Hoh, Arbitrator  
(Print Name)